MULTIMEDIA UNIVERSITY STUDENT IDENTIFICATION NO

MULTIMEDIA UNIVERSITY

FINAL EXAMINATION

TRIMESTER 3, 2018/2019

UCS2612 – CONSUMER LAW

(All Sections/Groups)

31 May 2019

Reading Time : 9.00 a.m – 9.15 a.m
(15 Minutes)

Answering Time : 9.15 a.m – 12.15 p.m
(3 Hours)

INSTRUCTIONS TO STUDENTS

1. Students will have **fifteen minutes** during which they may read the paper and make rough notes ONLY on their question paper. Students then have the remaining **THREE HOURS** in which to answer the questions.

2. This Question paper consists of 4 pages and 4 questions only.

3. This Question paper consists of 2 sections. Attempt **ONE** question only in **Section A (1a or 1b)** and all **THREE** questions in **Section B**. All questions carry equal marks and the distribution of the marks for each question is given.

4. Students are not allowed to bring in any statutes into the Examination Hall.

5. Please write all your answers in the Answer Booklet provided.

SECTION A: Answer Question 1(a) OR Question 1(b) (25 MARKS)

QUESTION 1(a)

On 1 April 2018, Walter went to Matahari Berhad ("the company"), a second-hand car dealer in Melaka Raya. After examining various models of cars, he conducted a test drive of Henda Oddesey and performed a thorough examination of the car. Walter then purchased the car for RM38,000. A week later, he heard an abnormal sound coming from the engine part of the car and noticed that there was an engine oil leakage. Walter then brought the matter to the attention of the company. After several discussions, the company agreed to replace the engine free of charge while labour cost was chargeable. However, three months later, the same condition emerged as there was still an abnormal sound coming from the engine of the car. He then decided to make another claim as the warranty period was still valid.

On 20 January 2019, Walter together with his wife, Sara was driving through the South Federal Highway from Melaka when the car suddenly swerved because of a faulty power steering and failure of the brakes. The car slammed into a tree and both of them suffered minor injuries. However, the car was in a bad condition and needed to be repaired.

He claimed that the company had only replaced some defective parts and not the entire engine as it had claimed. In addition, the refurbished engine lacked a serial number. Besides, the car had other inherent problem which was not brought to his attention.

Walter decided to file a suit against the company for the above defects. He and his wife also claimed compensation for their treatments arising from the accident.

With reference to the Consumer Protection Act (CPA) 1999 and case laws, identify the various issues arising from the above incidents.

(Total: 25 marks)

Or

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QUESTION 1(b)

Laila saw an advertisement for a whitening cream manufactured by Puteh Company which promised fair skin within a week when used as prescribed. She went to a Wattwo Pharmacy and purchased the whitening cream. However, after a week, Laila noticed that she experienced excessive dryness and flaking of her skin. She continued experiencing itching all over her body. She was also not able to go to work because her skin burns whenever it exposes to the sun.

Subsequently, Laila went to a hospital and she was diagnosed with a major skin condition. She was admitted for a whole month. According to her doctors, the cause of her condition was due to the whitening cream as she has sensitive skin. Laila intends to commence legal action against Wattwot Pharmacy and Puteh Company. Laila has also lodged a complaint with the Ministry of Domestic Trade and Consumer Affairs.

With reference to the Consumer Protection Act (CPA) 1999 and related cases, answer the following questions:-

(a) Advise Laila of her rights and possible cause of action under the CPA 1999.
(9 marks)

(b) What are the various measures that the ministry can take?
(8 marks)

(c) What are the possible defences for Puteh Company and Wattwo Pharmacy?
(8 marks)

(Total: 25 marks)

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SECTION B: Answer All Questions (75 marks)

QUESTION 2

(a) In Malaysia, the responsibility of enforcing consumer protection laws rests with various government agencies. Explain the various Ministries that have the responsibility of enforcing consumer laws.

(15 marks)

(b) In the context of the Consumer Protection Act 1999, explain the following terms:
i.) Manufacturer (5 marks)
ii.) Supplier (5 marks)

(Total: 25 marks)

QUESTION 3

(a) Under the Consumer Protection Act (CPA) 1999, when there is a substantial failure in the supply of service, the cancellation of a contract can only take place upon certain conditions. What are these conditions?

(10 marks)

(b) What are the rights that may be exercised by the consumer upon cancellation of the contract as above?

(10 marks)

(c) Explain the "implied guarantee as to acceptable quality" under Section 32 of the Consumer Protection Act 1999.

(5 marks)

(Total: 25 marks)

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QUESTION 4

Lewis ordered customised clocks as gifts for his guests on his wedding scheduled on 1 April 2019. The customised clocks were ordered at a price of RM10,000 from Sweet Watch Berhad ("the company") with a factory in Hong Kong and expected to arrive in Malaysia on 1 February 2019. However, the delivery was delayed and after many pleas, they were delivered on 10 March 2019. When he opened the box, he was upset to find that the customised clocks were not as per the design that he had ordered earlier. Lewis personally informed the manufacturer that the customised clocks must have a unique flower according to his drawing at the back of the watch. Some of the customised clocks were not functioning correctly and some were not packed properly. Apparently the company failed to follow his instructions. He then told the company to take back the goods and return his money. A week had passed with no response from the company.

Lewis then managed to find a local company based in Pahang and ordered the same quantity of the customised clocks for a higher price of RM20,000. He now demands the difference in the price he paid. He wishes to take this matter up with the Tribunal for Consumer Claims and was advised by his friend to include an additional claim of RM15,000 for mental anguish. Lewis is claiming a total of RM25,000 from the company.

Based on the above facts, advise Lewis and explain the procedures to bring an action in the Tribunal for Consumer Claims. Further, explain the awards that can be granted by the said Tribunal to Lewis.

(Total: 25 marks)

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